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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,477	08/26/2003	Rudi Verbist	1875.4870002	2324
26111	7590	12/08/2005	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			CHOE, HENRY	
			ART UNIT	PAPER NUMBER
			2817	

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

34

<b>Office Action Summary</b>	Application No. 10/647,477	Applicant(s) VERBIST ET AL.	
	Examiner Henry K. Choe	Art Unit 2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/26/03; 7/11/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 9 is objected to because of the following informalities: in line 1 of claim 9, should "any claim" be --claim--? Appropriate correction is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-19 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,400,228.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the current (child case) claim limitations are merely broader recitations of the parent case.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, 10-14, 16, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujiwara (Figs 2 and 4) [It should be noted that the item 29 shown in Fig. 4 is internal structures of the item 29 in Fig. 2].

Regarding claims 1 and 11, Fujiwara (Figs 2 and 4) discloses an amplifier circuit comprising a switch (S in Fig. 4) having a plurality of inputs (h of switch S, I of switch S) connected to a respective plurality of supply voltages (V<sub>h</sub>, V<sub>I</sub>), and an output (left terminal of S) connected to a supply voltage terminal (upper vertical terminal of 27) of the operational amplifier (27), and wherein the input of the switch (h of switch S or I of switch S) is selected in dependence on the voltage level to which a signal is to be amplified (see column 5, lines 22-62; also see column 4, lines 19-26 which describes the basic operation of Fig. 1 which is similar to the power supply circuit 29 of Fig. 2).

Regarding claims 2 and 12, Fujiwara (Figs 2 and 4) further comprising a digital to analog converter (25) which receives digital values and generates a corresponding analog signal.

Regarding claims 3 and 13, wherein the input of the switch (h of switch S or I of switch S in Fig. 4) is selected in dependence on the digital values[(input of 30 in Fig. 2), see column 5, lines 22-62].

Regarding claims 4 and 14, wherein the input of the switch (h of switch S or l of switch S in Fig. 4) is selected in dependence on the peak digitized value (32).

Regarding claims 6 and 16, wherein the input of the switch (h of switch S or l of switch S in Fig. 4) is selected by a control signal (output of 30 in Fig. 2) generated in dependence on the digitized values (input of 30 in Fig. 2).

Regarding claim 7, wherein the digitized values (input of 30 in Fig. 2) are stored in the digital to analog converter (31).

Regarding claims 8 and 17, wherein the switch (S in Fig. 4) has a first (l of S in Fig. 4) and a second (h of S in Fig. 4) input connected to respective first (Vl in Fig. 4) and second (Vh in Fig. 4) supply voltages and wherein the first supply voltage (Vl in Fig. 4) being lower than the second supply voltage (Vh in Fig. 4) and wherein the input of the switch (h of switch S or l of switch S in Fig. 4) is selected to be the second input (h of S in Fig. 4) if the voltage level to which the signal is to be amplified exceeds a predetermined level (Vc) [see column 5, lines 22-31].

Regarding claims 10 and 19, the limitations recited in the claims are intended use of the invention. No patentable weight is given to the intended use of the invention since the structure of the prior art [Fujiwara (Figs 2 and 4)] is capable of performing the intended use (see MPEP 2111.02).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2817

Patent numbers (6,218,897; 5,546,051) are the amplifiers with the multiple power supplies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry Choe whose telephone number is (571) 272-1760.

#1080



**HENRY CHOE**  
**PRIMARY EXAMINER**